THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27207 OF 2005

Dated: 22-12-2005

Between

Smt Lakkam Padma, W/o. Ramulu,

Fair Price Shop Dealer of Shop No.II,

Dharmaraopet Village, Ghanpur Mandal,

Warangal District.

...PETITIONER

AND

Joint Collector, Warangal District

at Warangal and others.

...RESPONDENTS

ORDER:

Petitioner seeks a writ of certiorari to call for the records relating to Appeal No.36 of 2005 dated 16.12.2005 on the file of the Joint Collector - first respondent and to quash the same as illegal and arbitrary and consequently to suspend the order of the Revenue Divisional Officer – second respondent dated 28.11.2005.

Learned counsel for the petitioner submits that the petitioner is a fair price shop dealer of Shop No.II, Dharmaraopet Village, Ghanpur Mandal, Warangal District since 1997 and her authorization has been renewed from time to time and she has been distributing the essential commodities to the cardholders without any complaints whatsoever. While so, the

second respondent, issued a show cause notice dated 12.04.2005 based on the report of the Mandal Revenue Officer – third respondent dated 17.03.2005 wherein it was stated that the petitioner is not running the fair price shop since last two years but one private person is lifting and issuing the essential commodities to the cardholders on the behalf of the petitioner and therefore, called the petitioner to show cause as to why her authorization should not be suspended. Admittedly, the petitioner has not submitted any explanation to the said show cause notice. Thereafter, the second respondent issued another show cause notice dated 11.11.2005 based on a petition filed by one M. Srinivas, alleging that the petitioner produced bogus certificates at the time of appointment as fair price shop dealer. Therefore, the petitioner was informed to appear before the second respondent along with original certificates on 21.11.2005. It is stated that the petitioner appeared before the second respondent and produced the certificate of TC issued by the Sandhya High School, showing that she studied up to 10^{th} class but did not qualify.

On enquiry the petitioner orally deposed that she is un-educated and not qualified. On the said allegations, the authorization of the petitioner was suspended for contravention of the conditions 4(i)(ii), 7, 8 and 11 of her authorization. Aggrieved by the same, the petitioner preferred an appeal vide Appeal No.36 of 2005 along with an application for suspension of the proceedings dated 28.11.2005 before the first respondent

As per condition 4(i)(ii) the dealer must maintain the register/records and complete accounts for each day; no show cause notice has been issued for violation of the said condition and there is nothing on record to show that the petitioner is not maintaining the records. Condition 7 prescribes that the dealer has to sell the commodities to the cardholders as directed by the appointing authority, condition 8 prescribes that the dealer has to make entries in the supply cards of the consumers and as per condition 11 the dealer has to comply with the directions given by the appointing authority from time to time. No show cause notice has been issued for the alleged violation of the said conditions; more over the show cause notice has been issued on some grounds and the petitioner's authorization has been suspended for some other reasons. Therefore, this Court is of the opinion that without framing any charges and without following the due procedure prescribed in law, the show cause notice has been issued and the petitioner's authorization has been suspended illegally without any justification whatsoever. Further, the first respondent by order dated 16.12.2005 refused to grant stay.

As the original suspension itself is made without any basis and without framing any charges, I am of the opinion that the order of the first respondent refusing to grant stay is illegal and unsustainable. Accordingly, the order of the first respondent dated 16.12.2005 and the order of the second respondent dated 28.11.2005 are set aside directing the second respondent to issue a fresh show cause notice specifying the specific charges as to why proper action shall not be taken against the petitioner. However, the appeal pending before the first respondent becomes infructuous and no orders need be passed in the appeal.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

December 22, 2005

Note: Furnish C.C. of the order by 24.12.2005

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DSK